

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

THOMAS HUNZIKER, as Trustee for the
next of kin of ALH,

Case No. 20-CV-2188 (NEB/TNL)

Plaintiff,

v.

PATRICIA DOHERTY; COUNTY OF
HENNEPIN, MINNESOTA;
ROBERT MARSHALL, M.D.;
KRISTEN MEDHANIE; and ALLINA
HEALTH SYSTEM,

ORDER ON PETITION FOR
DISTRIBUTION OF WRONGFUL
DEATH PROCEEDS

Defendants.

Thomas Hunziker filed this action as trustee for the next of kin of his granddaughter ALH, who died while in the care of the Hennepin County child welfare system. Hunziker and ALH's grandmother Mary Egan¹ settled their federal wrongful death claims against Hennepin County and Patricia Doherty (together, "County Defendants"). (Petition ¶ 11.) Hunziker now petitions for approval of distribution of the wrongful death settlement proceeds.

Under Rule 144.05 of Minnesota's General Rules of Practice, a trustee must submit to the court a verified petition seeking distribution of money recovered in a wrongful

¹ Egan acted on behalf of ALH's brother JTH. (ECF No. 184 ("Petition") ¶ 10 (filed under seal).)

death case.² Minn. Gen. R. Prac. 144.05. The court may then approve, modify, or disapprove the petition. *Id.*

Hunziker filed a petition and other documentation supporting the distribution of the wrongful death proceeds, including consents and waivers from some of ALH's next of kin. (*E.g.*, ECF Nos. 191 (filed under seal), 193, 198 (filed under seal).) Hunziker and the County Defendants also filed a stipulation that the Court may enter an order approving their settlement, the terms of which are set forth in the Petition. (ECF No. 205 at 2 (citing Minn. Stat. § 466.08).) The Court held a hearing on the petition on July 28, 2022. The trustee Hunziker testified at the hearing. No objections have been raised to the settlement.

The Court has carefully considered Hunziker's petition and based on the foregoing and on all the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

² Other courts in this District have followed Rule 144.05's procedure for approving similar settlements. *See, e.g., Broadus v. Johnson*, No. 16-CV-1211, ECF No. 189 at 2 (D. Minn. Jan. 3, 2019) (collecting cases). As *Broadus* explained:

In a wrongful death action brought pursuant to diversity jurisdiction, Local Rule 17.1 requires this Court to follow the State of Minnesota's procedure for approving the settlement of a claim brought by a trustee. There is no analogous rule that governs how the Court must proceed when, as here, the Court has original jurisdiction. Consistent with similar cases brought in this District, the Court follows the procedure for approving settlements, as articulated in Minnesota's General Rule of Practice 144.05.

Id. at 2 n.1. In the interest of judicial economy, this Court also follows Rule 144.05's procedure for approving the parties' settlement.

1. Based on the stipulation of Hunziker and the County Defendants, (ECF No. 205), the Court approves the settlement between these parties. In doing so, this Court acts in the stead of the state district court referenced in Section 466.08;
2. The Petition for Distribution of Wrongful Death Proceeds (ECF No. 184) is APPROVED;
3. Thomas Hunziker's proposed distribution is approved in principle;
4. Newmark Storms Dworak LLC is awarded fees and costs in the amount of \$427,778.85;
5. Olson Defense PLLC is awarded fees in the amount of \$44,000;
6. ALH's brother JTH shall receive a distribution in the amount of \$308,848.15;
7. ALH's half-sister LH shall receive a distribution in the amount of \$308,848.15;
8. Patricia Dahn shall receive a distribution in the amount of \$10,000;
9. The Crime Victim's Reparations Board shall be reimbursed in the amount of \$524.85;
10. No other distribution shall be made; and
11. Upon a global resolution with Hennepin County, Thomas Hunziker shall

12. submit a supplemental petition to the Court presenting a specific plan for the structuring or otherwise securing of the minor funds.

Dated: July 28, 2022

BY THE COURT:

s/Nancy E. Brasel

Nancy E. Brasel

United States District Judge